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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,693	07/01/2003	Thomas Wulff	1563/SYMBP155US	4431
23623	7590	05/16/2006	EXAMINER	
AMIN & TUROCY, LLP 1900 EAST 9TH STREET, NATIONAL CITY CENTER 24TH FLOOR, CLEVELAND, OH 44114			FRECH, KARL D	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/611,693

Applicant(s)

WULFF, THOMAS

Examiner—

Karl D. Frech

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20,22 and 24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 1-9 is/are allowed.
6) ☒ Claim(s) 10-20,22,24 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

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1. Applicant's amendment filed 2/21/06 has been entered.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 10-20 remain rejected under 35 U.S.C. 102(b) as being anticipated by Shepard et al, 5,130,520. Shepard discloses a bar code reader (col 7 lines 60-67), with a flexible housing (col 8 lines 11-14), a stiff enclosure (board 59) partially encapsulating (on the bottom surface of) a plurality of circuit boards (sub circuits 55-58) (col 12 lines 21-25), and a resilient member interposed between the flexible housing and stiff enclosure, i.e. shock mounting means (col 12 lines 36-52). These shock mounting means inherently shift laterally (depending on the external force). The plurality of circuit boards are inherently interchangeable at time of manufacture, i.e. when the circuit boards are being assembled to the stiff enclosure, as they are not yet assembled, they are readily changeable. It is also inherent that in manufacture of the bar code readers, like parts are used for a plurality of particular bar code readers.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 22,24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepard et al 5,130,520. Shepard discloses that which is seen above. Shepard does not disclose the external bumps as in claim 8. Official Notice is taken that external bumpers are old and well known. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use external bumpers in order to avoid scarring of the external surfaces of the flexible housing. Shepard does not disclose taking an order for a specific terminal as in claim 21. Official Notice is also taken that placing orders for products is old and well known. It would have been obvious to a person of ordinary skill in the art at the time of the invention to place an order when purchasing a particular terminal in order to indicate to a salesperson which terminal was desired.

6. It is noted that the above holdings of Official Notice have not been contested with applicant's response to the first Office Action. Therefore, that which has been held as old and well known is now considered admitted prior art.

7. Claims 1-9 are allowable over the prior art of record for those reasons as set forth in the previous Office Action.

8. Applicant's arguments filed 1/6/06 have been fully considered but they are not persuasive. Applicant argues against the rejection of claims 10-20,22 stating that Shepard does not disclose a plurality of circuit boards that are partially enclosed by a rigid body. The examiner respectfully disagrees. Applicant properly admits that sub-circuits 55-58 are mounted on a circuit board 59. As the examiner interprets, the sub-circuits 55-58 must be on a mounting, i.e. a circuit board. These mountings are in turn

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mounted on the circuit board 59, i.e. rigid body, which by its positioning physically borders, i.e. at least partially encapsulates, the circuits 55-58. Applicant also argues that Shepard does not provide means for maintaining a planar configuration for a printed circuit board. The examiner asserts that this function is performed by the rigid circuit board 59.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl D. Frech whose telephone number is (571) 272-2390. The examiner can normally be reached on maxi-flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Karl D Frech
Primary Examiner
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